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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,302	09/29/2000	Richard Robb	1010/202	1774

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EXAMINER

BASHORE, ALAIN L

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,302

Applicant(s)ROBB ET AL. **Examiner**

Alain L. Bashore

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The previous office action is hereby withdrawn. Newly cited prior art is utilized in a new art rejection given below. Please note that this case has been transferred to a different examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 8, 13-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13-23 recite "system" which is vague and indefinite since the common meaning of the term does not clearly determine the statutory class of invention. Since the term system may encompass more than one statutory class, there is a requirement for an indication on the record as to what statutory class of invention the "system" claims belong to (see MPEP 2106.IV.B). The statutory provision for this requirement may be found in 35 U.S.C 101 that recites the statutory classes of invention.

For the purposes of this examination these claims are considered apparatus.

In claim 1, there is a lack on antecedent basis for "the job".

In claims 1 and 8 the recitation clauses start improperly. As method steps, the recitations must start with an action - not an individual (i.e: replace "the buyer submitting a service request ... with "submitting a service request by the buyer ...").

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-4, 7, 8-11 are rejected under 35 U.S.C. 101 as non-statutory because the method claims as presented do not claim a technological basis. Without a claimed basis, the claims are interpreted as involving no more than a manipulation outside of a technological art and therefore non-statutory under 35 U.S.C. 101.

In contrast, a method claim that includes in the preamble and body of the claim structural / functional interrelationships that are solely by computer (and non-trivial) are considered to have a technological basis and thus within the technological arts [See *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential].

Claims which are broad enough to read on statutory subject matter and on nonstatutory subject matter are considered nonstatutory [see *In re Lintner*, 458 F.2d 1013, 1015, 173 USPQ 560, 562 (CCPA 1972)].

Claim Rejections - 35 USC § 103

6. Claims 1-3, 5-9, 11-15, 17-21, 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ojha et al.

Ojha et al discloses auctioning services (col 1, lines 20-48) requested by a buyer utilizing the Internet. A broker is disclosed (server system). The buyer is disclosed as maybe limiting the number of bids to be considered at an auction because of tradeoff (reputation; col 3, lines 20-43; col 15, lines 30-44). A number of bids are made available to bidders, the buyer is notified of the bids, and the buyer selects a bidder (col 18, lines 52-67; col 19, lines 1-11). Ojha et al appears to disclose a buyers rating (col 10, lines 44-61).

While Ojha et al does not explicitly disclose the buyer specifying at the start of the auction the number N of best bids to be considered from the auction, it would have been obvious to one with ordinary skill in the art to include such because Ojha et al teaches that buyer bid numbers may be limited because of other factors (col 3, lines 20-43).

Since there is a teaching of limiting number of bids by buyers, there is also present applicant's recitation regarding N (where N is a number less than on factors other than price).

Art Unit: 3624

7. Claims 4, 10, 16, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ojha et al as applied to claims above, and further in view of Saito et al.

Ojha et al does not disclose the service request as for print services.

Saito discloses print services as a commodity (col 3, lines 40-46).

It would have been obvious to one with ordinary skill in the art to include the service request as for print services because Ojha et al teaches that services are brokered as electronic commerce (col 1, lines 20-30) and Saito teaches that printing services is one type of commerce (col 3, lines 40-46).

Conclusion

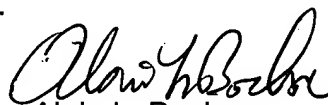
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

Art Unit: 3624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alain L. Bashore
Primary Examiner
Art Unit 3624